

Remarks

The claims ruled on in the Board's Decision have been canceled. It does not follow that the Decision's holding was correct, or that every statement made in the Decision is correct. Instead of going to the additional time and expense of exposing flaws in the Decision through an appeal, however, Applicants have chosen to focus here on claims that were not ruled on by the Board, to more rapidly find common ground with the Office.

Each of the claims now presented has language requiring "a packet path selector which selects between the network interfaces to split the message between the networks by sending different packets of the message over different network interfaces" or similar language. That is, each claim has a message-splitting requirement.

Previously presented claims 5 and 20, whose rejection was affirmed by the Board's Decision, included similar message-splitting limitations. However, the Board did not address those limitations. In the Decision, claim 20 was grouped with claim 1 and ruled on in Section III; the limitations specific to claim 20 were not ruled on separately. Claim 5 was discussed in Section VI, but the question ruled on was whether the Kitai and Dutta references had been properly combined to reject claim 5; limitations specific to claim 5 were not analyzed. In short, the claims now presented are not contrary to the Board's Decision, because they include limitations not addressed by that Decision.

The Examiner has previously argued that the limitations of claim 5 and claim 20 are taught by the cited art. For example, paragraph 19 of the Examiner's Answer mailed May 4, 2007 argues that Dutta teaches claim 5's requirement of "promoting use of multiple networks to carry different pieces of a given message so that unauthorized interception of packets on fewer than all of the networks used to carry the message will not provide the total content of the message". The Answer cites Dutta's abstract, figures 1-2, col. 1 lines 29-64, and col. 5 lines 31-54. Paragraph 28 of the Examiner's Answer argues that Kitai teaches "sending a packet to the controller site interface is repeated as multiple packets are sent, and the controller sends different packets of a given message to different frame relay networks." The Answer cites Kitai's abstract and col. 3 lines 6-42.

In both cases, the Answer is mistaken. Neither Dutta nor Kitai teaches dividing a particular message between networks as claimed. Merely sending different packets over

different networks is not enough – these claims require more. A message must be split between networks. The packets of a given message must be sent over different networks. This message-splitting is not taught in the art.

If anything, Dutta and Kitai teach away from splitting a message. Splitting a message could compromise the Quality of Service emphasized in Kitai; by contrast, the present invention splits a message to enhance security even if splitting the message degrades Quality of Service. Splitting a message could compromise the speed sought in Dutta, because Dutta uses the first packet of a message to set the load balancing rule for the entire message: “Subsequent packets in the message are then filtered in accordance with the rule constructed for the first packet of the message.” Dutta col. 4 lines 47-57.

In view of the above, Applicants submit that each of pending claims is patentable, and respectfully request their prompt allowance. The fact that this Amendment is silent as to any particular statement of the Office (including in particular any statement in the Board’s Decision) does not indicate agreement with that statement. Applicants expressly reserve all arguments not made here.

The undersigned is available for a telephone conference at the Examiner’s convenience.

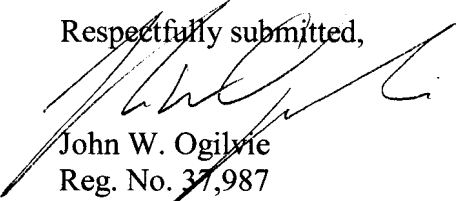
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CERTIFICATE OF SUBMISSION

I hereby certify that this Amendment (RCE Submission) and RCE Transmittal are being submitted to the USPTO, through EFS-WEB, on July 23, 2008.

Respectfully submitted,


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